state senator

Vic Heinold

2006 LEGISLATIVE UPDATE

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Eminent Domain

Legislation protects Hoosier property owners

The right to own property is fundamental to the American way of life. We are all familiar with the concept of "life, liberty, and the pursuit of happiness" set out in our Declaration of Independence. However, at the time the Declaration was issued, many Americans listed such basic God-given human rights as "life, liberty and property."

Last summer, the U.S. Supreme Court issued a ruling that threatens the right to own property. In *Kelo v. City of New London*, the court said that government may "take" private property for economic development. In other words, as then-Justice Sandra Day O'Connor wrote, "Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

The Supreme Court, however, left a loophole, saying legislatures may further restrict the use of eminent domain. This year, the General Assembly did exactly that.

This summer, Indiana created an Eminent Domain Study Committee, which I was a member of, to look at Indiana's property rights laws to see how they could be improved. Many of their conclusions are now in the form of House Enrolled Act 1010.

Perhaps most importantly, the new law requires eminent domain be used for public benefit. Thus, eminent domain can be used for a legitimate government purpose, such as roads-but not simply to increase a local government's tax base.

The new law does several other things, including placing time restrictions on eminent domain so that property owners are not left in limbo for years at a time, requiring just compensation for Hoosier property owners, and mandating good-faith negotiations between the condemner and the property owner.

When used appropriately, eminent domain is an important tool that can help provide roads, parks, and schools for public use. HEA 1010 ensures that this tool is not abused at the expense of Hoosiers' right to own private property.

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SENATOR VIC HEINOLD

serving district 5: Starke County and portions of Jasper, LaPorte, Marshall, Porter, Pulaski and St. Joseph counties

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Property Taxes: Hoosiers to See Relief Now

Across the state, there is a strong desire to decrease local governments' reliance on property taxes. In order to eliminate more than $5 billion in revenue, we must find a new source of funding. This year, the Senate came up with a plan that would lower property taxes and replace that lost revenue with a more equitable tax. Unfortunately, the plan did not become law.

Statistics show that Indiana ranks among the worst in the nation in reliance on property taxes to fund local government. Indiana funds 89 percent of local government with property taxes. The national average is 78 percent and falling. That makes Indiana the 15th worst property tax state in the nation.

Also, Indiana is 14th worst in the nation in reliance upon property taxes in relation to sales and income tax - the "big three." Property taxes provide 37.2 percent of income from "the big three" compared to national average of 32.4 percent and falling.

Property taxes, which are levied and collected by local — not state — government, fund local entities such as schools, libraries, and fire departments. It's no secret that the property tax is often unfair. It affects seniors, small business owners and farmers more than it affects people who can afford to pay the tax. The Senate plan to permanently lower property taxes replaces the unfair property tax with a more equitable income tax.

Under the senate plan, local elected officials in each county would take two votes. The first, an incremental income tax increase estimated at less than 1 percent, would stop the growth of property taxes and freeze them at current levels. The second, an additional one percent, would actually lower property taxes by an average of 20 percent or more. This solution or a similar one would provide real, tangible, long-term property tax relief to Hoosiers.

Instead of passing this long-term relief, the General Assembly this year approved $100 million in immediate relief in the form of House Enrolled Act (HEA) 1001. This money will lower property tax increases this year, giving taxpayers a quick break. This move could mean that homeowners will see no increase from their 2005 tax bills. Early estimates suggested hikes as high as 12 percent, but most experts thought increases would be around 5 percent. HEA 1001 will keep any increases reasonable and may flatline many bills.

In addition to providing immediate property tax relief, HEA 1001 sets the stage for a long-term solution to high property tax bills. The new law states that by 2010, property taxes must be capped at 2 percent of assessed value.

HEA 1001 aids property taxpayers, but is also a pro-business law. The legislation phases in a single sales factor tax by 2011. This means payroll and property factors will no longer be used in figuring corporate taxes. With a single sales factor, businesses will no longer be penalized for owning property or having large payrolls in Indiana.

The out-of-state utility services tax will help Indiana utility companies compete with others by subjecting out-of-state utility companies to the same taxes as Indiana companies face.

Permanent property tax relief sits firmly at the top of my agenda for the 2007 legislative session. I am pleased that we were able to help Hoosiers, but I am also hopeful that long-term relief will come in the very near future.

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DAYLIGHT SAVING TIME LEGISLATION DIES IN COMMITTEE

This session, I filed Senate Bill 79, a bill that, if passed, would have required the governor to petition the U.S. Department of Transportation to place all of Indiana on Central Standard Time.

Unfortunately, this bill failed to receive a hearing in the Senate Committee on Rules and Legislative Procedure. I plan on filing this bill again during the 2007 legislative session, as I firmly believe it is in the best interests of all Hoosiers to observe one uniform time zone.

Major Moves: The Jobs Bill of a Generation

At one time, the Indiana Toll Road was one of the state's most valuable assets. Tolls have not increased in more than twenty years and the Indiana Toll Road no longer pays for itself. In 1954, $280 million of bonds were issued to build the road; $225 million in bonds are outstanding today.

Statewide Mobility Partners (SMP) has submitted the winning bid of $3.85 billion to lease operations of the toll road. This entity operates more than 30 toll roads on five continents, including the Chicago Skyway. SMP will make improvements estimated at more than $4.4 billion over the term of the lease, including more than $200 million in the next three years. In comparison, if Indiana would operate the toll road, the state would only earn $1.2 to $1.4 billion over the next 75 years.

Indiana is leasing, not selling, the toll road. Indiana taxpayers will retain ownership.

After bond repayments and a distribution to the Next Generation Trust Fund, the seven toll road counties will receive 34% of the proceeds, in addition to their share of the local road funds. The counties can use these funds for construction of highways, roads, and bridges, as well as for economic development projects. In 2006 and 2007, $150 million will be distributed to local communities for their transportation needs. The counties I represent will receive the following amounts:

<u>LaPorte County</u>	
LaPorte County	$119,513,904
LaCrosse	$127,033
Wanatah	$229,384
Westville	$1,179,983
Total	$134,792,547
<u>Porter County</u>	
Porter County	$86,593,435
Hebron	$499,083
Kouts	$235,662
Valparaiso	$3,806,687.56
Total	$98,456,510
<u>St. Joseph County</u>	$398,822,038
Walkerton	$301,966
Total	$420,432,685

*Note - figures represent only the towns in District 5

In addition, millions will be dedicated to the Northwest Indiana Regional Development Authority (NIRDA). The NIRDA was created as a result of House Enrolled Act (HEA) 1120, signed into law in 2005. The NIRDA will develop projects such as expanded regional rail and bus transportation, the creation of shoreline and economic development capital projects, and the enlargement of the Gary Airport. HEA 1008 will appropriate $40 million to the NIRDA in Fiscal Year (FY) 2007. The NIRDA will receive $10 million each subsequent fiscal year through FY 2015 for a total distribution of $120 million. The NIRDA will bring additional jobs and growth to Indiana to make the region an economic model for the rest of the state. This appropriation can only further the goals of the NIRDA.

HEA 1008 also creates the Next Generation Trust Fund, which will receive an initial deposit of $500 million. Beginning in 2011 and every five years thereafter, the interest the fund accrues will be used to fund road and bridge construction projects around the state.

I understand there may be some concern about leasing the toll road to an international company. The state is not selling the toll road; the taxpayers will retain ownership of the property and road. The lease includes standards and procedures that must be met by the consortium, which includes time limitations for snow removal and pothole repair. If these standards are not met, the state can take the road back and keep the $3.85 billion. Most importantly, in the case of a crisis or national emergency, the state retains the right to take emergency action.

Other questions have been raised about how this proposal will affect state employees. SMP will employ Hoosiers here in Indiana. SMP is required to interview all employees and shall give a hiring preference to qualifying Indiana workers. Employees who choose not to work for SMP or are not hired will be provided opportunities elsewhere in state government.

In the agreement, SMP will receive the right to collect tolls during the lease period but there are stipulations limiting toll increases. There will be no toll increases until electronic passes are available, which will be in approximately 18 months. Once the passes are in place, electronic pass users will receive a 40 percent discount on tolls for the next 10 years.

My first priority as your state senator is to bring jobs and economic growth to Northwest Indiana. While I understand and appreciate the concerns some may have, I had to examine the proposal's merits and vote in the best interests of Senate District 5. In an area largely affected by job losses, to vote against HEA 1008 would deny thousands of unemployed individuals in my district the opportunity for employment. With new and improved infrastructure, more jobs will be created across the state with involvement in all sectors. After carefully studying this legislation, I voted in favor of HEA 1008, which will lead Indiana to a brighter and more prosperous future.

For more information regarding Major Moves, please visit this informational website:
www.in.gov/gov/majormoves

GENERAL ASSEMBLY PASSES CLEAN ENERGY BILL

Senator Heinold listens to testimony regarding a bill.

As you may know, the Indiana General Assembly adjourned for the year on March 14 and it is my sincere hope that the actions we took will bring economic growth not only to Northwest Indiana, but to the entire state. In my opinion, one way to bring additional growth is to further bolster the use of grain-based fuels in Indiana. Ethanol and biodiesel production has a positive impact on Indiana farmers, especially since we are the fifth largest state in corn production and the largest in soybean production.

In the 2005 legislative session, our Clean Indiana Energy bill made Indiana a leader in new fuel technology. Currently, six ethanol plants have broken ground in Indiana with another 18 on the drawing board. Other states are starting to see the benefits of investing in alternative fuels, which is why SEA 353, which I co-authored, was introduced this year to ensure Indiana remains a leader in this area.

SEA 353 establishes a $50 million tax credit for new ethanol and/or biodiesel production facilities. Ethanol production plants cost upwards of $79 million to build and the companies do not receive tax breaks until they make a profit in our state. Further, the bill also establishes a retail tax credit of 10 cents per gallon of E85 fuel (85 percent ethanol) sold to consumers, up to a maximum of $2 million over the next two years. If retailers reach the maximum credit, Indiana will have sold over 20 million gallons of E85 in two years. Indiana leads the nation with the highest number of E85 fuel stations; our goal is to establish 40 E85 fueling stations by the end of 2006.

Additionally, SEA 353 extends the current B20 motor fuel (20 percent biodiesel motor fuel) retail tax credit through 2010 and requires the Indiana Economic Development Corporation (IEDC) to work with GPS software companies to include E85 fueling stations on GPS software.

House Enrolled Act (HEA) 1285, legislation I sponsored, calls for additional study on grain-based fuels. The act requires the Environmental Quality Service Council to study and make recommendations about the feasibility of requiring motor vehicles sold in Indiana to meet flexible fuel vehicle standards for E85 motor fuel and B20 biodiesel motor fuel.

This is great progress in such a short period of time. I am proud of the fact that Indiana leads the nation in this industry, as this legislation will only add to our advantage.

Louis Dreyfus Agriculture Industries, LLC, has announced plans to build the world's largest biodiesel plant in Indiana. This will nearly double the production of soybiodiesel worldwide. With plans for a location in Kosciusko County, the plant will bring approximately 200 jobs to Indiana during construction of the plant, and 85 permanent jobs once the plant opens.

The project will be built in two phases. The first phase will be a 50 million bushel per year soybean processing plant. The second phase will be the biodiesel production facility, which is expected to produce more than 80 million gallons of soy bioldiesel annually.

Telecom Law Could Save Money on Cable Bills

While much of the discussion in this year's session centered on physical infrastructure like roads and bridges, the General Assembly made a historic change in its unseen infrastructure. Through reforms made in House Enrolled Act 1279, Indiana will soon see lower cable prices, increased competition and a wave of investment in the state.

HEA 1279 will eliminate the current virtual monopoly of cable providers and give most Hoosiers a choice in video service. In February, Ball State University's Digital Policy Institute released a study saying Hoosiers could save a total of $262 million on their cable bills annually as a result of new choices.

A recent survey of CEOs in Site Selection Magazine showed that access to high-speed communications is the most important factor in drawing new business development to a particular state. HEA 1279 encourages telephone companies to deploy more high-speed Internet, called broadband, by gradually deregulating basic phone services if broadband is made available.

Companies must be able to offer high speed Internet to 50 percent of households in any given exchange before they can raise rates in that exchange. Monthly basic rates may increase by only $1 per year until 2009.

The new law also contains protection for low-income Hoosiers. HEA 1279 establishes the Indiana "Life Line" program that provides discounted telephone rates to Hoosiers below 150 percent of the federal poverty level. Consumers will also be protected through a ban on "local measured service," which is the practice of charging for local phone calls by the minute.

This legislation was a rare opportunity to create jobs while lowering prices and improving customer satisfaction. Independent think-tank FreedomWorks has said HEA 1279 will create 20,000 new jobs and $7 billion in investment in Indiana. And that is an opportunity that can't be passed up.